

## NOT FOR PUBLICATION

SEP 15 2008

MOLLY C. DWYER, CLERK U.S. COURT OF APPEALS

## UNITED STATES COURT OF APPEALS

## FOR THE NINTH CIRCUIT

CATALINA DIAZ-VILLEGAS, a.k.a. Catalina Villega-Munoz, and JESUS MANUEL DIAZ-VALDIVIEZO,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney General,

Respondent.

No. 08-71815

Agency Nos. A99-468-043 A91-431-960

MEMORANDUM\*

On Petition for Review of an Order of the Board of Immigration Appeals

Submitted September 8, 2008\*\*
San Francisco, California

Before: PREGERSON, McKEOWN and N.R. SMITH, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

order dismissing petitioner Catalina Diaz-Villegas' and petitioner Jesus Manuel Diaz-Valdiviezo's appeal of an Immigration Judge's order denying petitioners cancellation of removal.

A review of the administrative record demonstrates that petitioner Jesus Manuel Diaz-Valdiviezo has presented no evidence that he has a qualifying relative for purposes of cancellation of removal as defined in 8 U.S.C. § 1229b(b) (1)(D). See Molina-Estrada v. INS, 293 F.3d 1089, 1093-94 (9th Cir. 2002). The BIA therefore correctly concluded that, as a matter of law, petitioner was ineligible for cancellation of removal. Accordingly, respondent's unopposed motion for summary disposition in part is granted because the questions raised by this petition for review as to petitioner Jesus Manuel Diaz-Valdiviezo are so insubstantial as not to require further argument. See United States v. Hooton, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

Petitioner Catalina Diaz-Villegas has failed to raise a colorable constitutional or legal claim to invoke our jurisdiction over this petition for review. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926 (9th Cir. 2005); *Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001). Accordingly, respondent's motion to dismiss in part this petition for review for lack of jurisdiction as to petitioner

Catalina Diaz-Villegas is granted. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Romero-Torres* v. *Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003); *Montero-Martinez v. Ashcroft*, 277 F.3d 1137, 1144 (9th Cir. 2002).

All other pending motions are denied as moot.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.